

**ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT**

**NOTICE OF SUSPENSION OF ATTORNEY'S
PRIVILEGE TO PRACTICE LAW**

**IN RE: ALICE WARD GREENE
 ARKANSAS BAR ID #95197
 CPC Docket No. 2007-129**

Attorney Alice Ward Greene, an attorney practicing law primarily in Little Rock, Arkansas, Bar ID #95197 has been suspended from the practice of law within the jurisdiction of this State.

The Committee on Professional Conduct suspended Arkansas Attorney Alice Ward Greene's License for a period of twelve (12) months effective July 9, 2008.

Please be advised that a suspended attorney shall not be reinstated to the practice of law in this State until the Arkansas Supreme Court has received an affirmative vote by a majority of the Committee. If, and at such time as the Committee may reinstate the attorney, you will be provided notice of the reinstatement and the effective date thereof.

If you have any questions in this regard or you have information evincing the attorney's continued practice contrary to the status of his license, please contact this office.

July 9, 2008
Date



Nancie M. Givens, Deputy Director
Office of Professional Conduct
625 Marshall Street, Room 110
Little Rock, AR 72201
(501) 376-0313

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

FILED

IN RE: ALICE WARD GREENE, Respondent
Arkansas Bar ID#95197
CPC Docket No. 2007-129

JUL 09 2008

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Larry McCarty in an Affidavit dated November 7, 2007. The information related to the representation of Mr. McCarty by Respondent beginning in February 2007.

On December 28, 2007, Respondent was served with a formal complaint, supported by affidavits from Larry McCarty; Denise Parks, Deputy Clerk, Arkansas Supreme Court Clerk's Office; Dana Rowlett, Assistant Director for CLE; and Stuart Spencer, Attorney at Law. Respondent personally signed for the restricted delivery mail sent by the Office of Professional Conduct containing the formal disciplinary complaint. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The information before the Committee reflected that on February 2, 2007, Larry McCarty hired Alice Ward Greene, an attorney practicing primarily in North Little Rock, Arkansas, to represent him in a divorce proceeding from Debbie McCarty. Ms. Greene was also hired to represent Mr. McCarty with regard to an Order of Protection that his estranged wife had received.

When Mr. McCarty first met with Ms. Greene, a fee agreement was signed. The fee agreement required payment of \$900 with \$525 being paid on or before February 5, 2007, and the balance within thirty (30) days. Ms. Greene was paid in full in three payments.

From the beginning of Ms. Greene's representation of Mr. McCarty, he had trouble communicating with her because she would not return telephone calls. Mr. McCarty called on numerous occasions only to not have my calls returned. During the course of Ms. Greene's representation of Mr. McCarty, Ms. Greene left the office she was in and then Mr. McCarty could only contact her by cell phone. Stuart Spencer, Mr. McCarty's ex-wife's attorney, had difficulty making contact with Ms. Greene, too.

The first Complaint for Divorce was filed on February 20, 2007. An Amended Complaint for Divorce was filed on March 29, 2007. Both pleadings were filed by Stuart Spencer on behalf of Debra H. McCarty. The Clerk's file does not contain a file-marked Answer on Mr. McCarty's behalf. Ms. Greene did file a Response to Amended Complaint for Divorce and Defendant's Counter Complaint for Divorce on April 23, 2007, which was the only pleading Ms. Greene filed on her client's behalf.

A hearing was conducted on April 23, 2007, before Judge Whiteaker. Ms. Greene appeared at the hearing. Following the hearing, Judge Whiteaker sent a letter confirming that Mr. Spencer was to prepare the Order from the hearing and Ms. Greene was to approve it. Ms. Greene never signed as approving the Order but it was finally filed anyway.

A final hearing on the divorce was held on July 12, 2007. Ms. Greene appeared on that date as well. Following the hearing, Judge Elmore sent notice to Ms. Greene that she was to prepare the Order in the matter. Ms. Greene did not do so. She never prepared any Order. Mr.

McCarty tried contacting Ms. Greene several times after the hearing with no success. Finally on August 3, 2007, Mr. McCarty sent notice to Ms. Greene that he no longer wished to have her as his attorney. Ms. Greene failed to respond to the correspondence. She took no action.

On August 9, 2007, Judge Elmore sent a letter to Ms. Greene and Stuart Spencer concerning the fact that no Order had been received. She notified both Ms. Greene and Mr. Spencer that if she did not have an Order by Friday, August 17, 2007, she would set a hearing for Monday, August 20, 2007.

Ms. Greene took no action with regard to this letter. Mr. Spencer prepared the Decree and sent it to Judge Elmore. Ms. Greene did not provide her client with a file-marked copy of the Decree. Mr. McCarty obtained a copy from another source. Mr. McCarty did not agree that was the ruling of the Court from the hearing but he had no attorney to assist him with an appeal.

At the time of filing his grievance, Mr. McCarty was having to pay other counsel and have the matter reconsidered. Mr. McCarty felt he was basically without a lawyer throughout the whole process.

After Ms. Greene was hired, the times she contacted Mr. McCarty were to request extra money. She would have him meet her at places away from the office. When Mr. McCarty inquired about the extra funds, she said she was having financial difficulties and the extra funds would help her out. After appearing in Court for the final divorce hearing, Mr. McCarty never heard from Ms. Greene again.

The information before the Committee also reflected that Ms. Greene had not paid her annual license fee for 2007 by March 1, 2007 as required. As a result of the non-payment of the annual license fee, Ms. Greene was suspended from the practice of law from March 2, 2007,

through at least the date Ms. Parks signed the Affidavit. In addition, the information provided by Ms. Rowlett demonstrated that Ms. Greene had been suspended for CLE non-compliance in Arkansas since November 28, 2006. At the time of the filing of the formal disciplinary complaint, the suspension remained in effect because Ms. Greene had not cured the deficiency.

Upon consideration of the formal complaint and attached exhibit materials, other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Ms. Greene's conduct violated Rule 1.3 because she did not act with diligence in her representation of Mr. McCarty after he hired Ms. Greene to represent him in a divorce proceeding in that she did not file an Answer on his behalf and she did not prepare a Final Decree of Divorce as directed by Judge Elmore following the final hearing on July 12, 2007, nor did she advise Judge Elmore that she could not ethically do so because her license to practice law in Arkansas was suspended at all times during her representation of Mr. McCarty. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Ms. Greene's conduct violated Rule 1.4(a)(3) when she did not keep Mr. McCarty informed of any efforts taken on his behalf with regard to the divorce proceeding in which he hired her to represent him. Rule 1.4(a)(3) requires that a lawyer keep a client reasonably informed about the status of a matter.

3. That Ms. Greene's conduct violated Rule 1.4(a)(4) because, despite messages left for her by Mr. McCarty and others on his behalf, Ms. Greene failed to respond to the requests for information. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

4. That Ms. Greene's conduct violated Rule 1.4(b) because she failed to explain

to Mr. McCarty at the time he hired her that she could not ethically represent him in his divorce proceeding because her license to practice law in Arkansas was suspended until such time as she satisfied her CLE deficiency. Without that information, Mr. McCarty was denied the opportunity to make an informed decision concerning whether he wished to hire her. Ms. Greene also violated Rule 1.4(b) when she failed to explain to Mr. McCarty, after March 2, 2007, that her license to practice law in Arkansas had also been suspended for her failure to pay her annual license fee and that she could not be reinstated from that suspension until such time as she paid the fee and the penalty for the late payment. Rule 1.4(b) requires that a lawyer explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

5. That Ms. Greene's conduct violated Rule 3.4(c) when she engaged in the practice of law on behalf of Mr. McCarty at a time when her license to practice law in Arkansas was suspended in violation of Section 22.B(2) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law which requires that a suspended attorney shall not engage in the practice of law; when she accepted fees from Mr. McCarty, agreed to represent him, and appeared in Court on his behalf in violation of Section 22 of the Procedures at a time when her license to practice law in Arkansas was suspended; when she filed a pleading in Circuit Court during a time when her license to practice law was suspended, containing the title that she was an attorney at law in violation of Section 22.B(4) which requires that a former attorney (including suspended attorneys) take such action as is necessary to cause the removal of any indicia of lawyer, counselor at law, attorney, legal assistant, law clerk or similar title from any association with the name of the former attorney; when all her meetings with Mr. McCarty were at times when her license to practice law in Arkansas was suspended in violation of Section 22.C(1) of the Procedures which requires that a former attorney have no contact with clients or prospective

clients of any attorney or law firm in person, by telephone, in writing, e-mail, or by any other form of communication; when she failed to sign off as to whether she agreed to the Order of April 23, 2007, despite having knowledge the Court expected to know that fact, but instead took no steps to advise whether she had concerns, she merely ignored it; and when, despite being directed to prepare the Final Order in the divorce proceeding by the Court on July 12, 2007, she did not do so, and Mr. Spencer was required to complete the Decree because Ms. Greene failed to do so or to advise the Court that she was unable to do so because of the status of her license to practice law in Arkansas. Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

6. That Ms. Greene's conduct violated Rule 8.4(c) when she allowed Mr. McCarty to believe that she could represent him in his divorce proceeding even though she was aware that she could not do so since her license to practice law was suspended and when at no time during the course of her representation of Mr. McCarty, did she advise opposing counsel or the presiding Judge that her license to practice law in Arkansas was suspended. Both acts of omission in not advising of the status of her law license is conduct involving dishonesty, deceit or misrepresentation. Rule 8.4(c) requires that a lawyer not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

7. That Ms. Greene's conduct violated Rule 8.4(d) because her failure to take action on Mr. McCarty's behalf or to explain to him that her license to practice law was suspended and she was prohibited from taking action on his behalf led to an unnecessary delay in his divorce proceeding and the finalization of the matter. Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on

Professional Conduct, acting through its authorized Panel B, that the law license of ALICE WARD GREENE, Arkansas Bar ID#95197, be, and hereby is, SUSPENDED FOR A PERIOD OF TWELVE (12) MONTHS for her conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. In addition, pursuant to Section 18.C. of the Procedures, Ms. Greene is ordered to make appropriate restitution to Mr. McCarty in the amount of \$975. Pursuant to Section 9.C(3) of the Procedures, the Committee also sanctions Ms. Greene for her failure to respond to the disciplinary complaint after proper service, by imposing a REPRIMAND and a fine in the amount of \$500. Further, pursuant to Section 18.A of the Procedures, Ms. Greene is assessed the costs of this proceeding in the amount of \$50. The fine, restitution, and costs assessed herein, totaling \$1525, shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: Valerie Z. Kelly
Valerie Kelly, Chair, Panel B

Date: February 27, 2008